



Signed and Filed: March 01, 2011

*Dennis Montali*

DENNIS MONTALI  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re ) Bankruptcy Case  
STEVEN D. BUFORD, SR. and VANESSA ) No. 10-34825DM  
F. BUFORD, ) Chapter 13  
Debtors. )

MEMORANDUM DECISION ON MOTION TO AVOID LIEN

On January 12, 2011, debtors filed a motion to avoid the lien of respondents David Rea and Michael Martin. Respondents were properly advised in the motion of the deadline to oppose it or request a hearing.

Respondents submitted a letter to the court that was received on March 1, 2011. The court regards that letter as an opposition to the motion, albeit an untimely one. The letter does not contest the present value of the debtor's property, as alleged in the motion, nor does it offer any factual or legal basis that would be sufficient to defeat the motion on any other ground. Instead, the letter sets forth the respondents' prior good faith in attempts to assist the debtors, suggests a continuing willingness to work with the debtors and stresses the financial hardship they will suffer if the lien is avoided. Respondents have not requested a hearing.

1       The court will overlook the lateness of the response and the  
2 informal nature of it, together with the absence of any  
3 declaration to establish the facts asserted by respondents. The  
4 court also accepts as undisputed respondents' prior and present  
5 good faith, the possibility that property values will return, and  
6 that granting the motion causes them financial harm. Still, the  
7 court must overrule the opposition as legally insufficient.

8       Debtors are entitled to an order issued in accordance with  
9 this court's Guidelines for Valuing and Avoiding Liens in  
10 Individual Chapter 11 Cases and Chapter 13 Cases, which  
11 respondents are urged to review at [www.canb.uscourts](http://www.canb.uscourts). If debtors  
12 complete and confirm their Chapter 13 plan they will be entitled  
13 to a judgment avoiding the respondents' lien for all purposes; if  
14 their case is dismissed or converted to Chapter 7, the lien will  
15 be preserved.

16       Counsel for debtors should serve and upload an order avoiding  
17 respondents' lien for the reasons stated in the motion and in this  
18 memorandum decision.

19                   \*\*END OF MEMORANDUM DECISION\*\*

COURT SERVICE LIST

David Rea

Michael Martin

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